

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT OF	)	
INFORMATION FILED WITH CINCINNATI BELL	)	
TELEPHONE COMPANY'S APPLICATION FOR	)	CASE NO. 94-521
APPROVAL OF SPECIAL CONTRACT FOR	)	
PROVISION OF AUTOMATIC CALL DISTRIBUTION SERVICE	)	

O R D E R

This matter arising upon petition of Cincinnati Bell Telephone Company ("Cincinnati Bell"), filed December 21, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain contractual information and cost support data developed in connection with a proposed contract on the grounds that disclosure of the information is likely to cause Cincinnati Bell competitive injury, and it appearing to this Commission as follows:

Cincinnati Bell has applied for approval of a customer contract for Automatic Call Distribution Service. In support of its application for approval of the contract, Cincinnati Bell has submitted cost information which it seeks to protect as confidential. In addition, it also seeks to protect as confidential the identity of the customer with whom it has contracted, the rates agreed upon for the service, and the term of the contract.

Except for the customer who executed the contract and is, thus, aware of its provisions, all of the information sought to be protected is not known outside of Cincinnati Bell and is not disseminated within Cincinnati Bell except to those employees who have a legitimate business need to know and to act upon the information. Cincinnati Bell seeks to preserve and protect the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that section is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Cincinnati Bell's competitors for Automatic Call Distribution Service are vendors of PBX equipment. Disclosure of the cost support information sought to be protected would provide such competitors with Cincinnati Bell's cost and contribution from the

service. Competitors could use this information to plan market entry and develop more effective pricing strategies. Disclosure of the customer with whom Cincinnati Bell has contracted would enable its competitors to identify a potential client for their services. Therefore, disclosure of the information is likely to cause Cincinnati Bell competitive injury and the information should be protected as confidential.

The protection, however, provided by KRS 61.878(1) is not applicable to the rates and the term of the contract. Instead, their public disclosure is mandated by KRS 278.160. That section requires all utilities to file schedules of their rates and conditions of service with the Commission and to display those schedules for public inspection. The price to be charged under the contract and the term of the contract are "rates and conditions of service" within the meaning of KRS 278.160 and are subject to its requirements. In such cases, where public disclosure is directed by another statute, paragraph (c)3 of KRS 61.878(1) provides that the exemption provisions of that section do not apply. Therefore, the petition to protect the rates and the term of the contract should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The cost support data and the identity of the customer with whom Cincinnati Bell has contracted to provide Automatic Call

Distribution Service, which Cincinnati Bell has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. The petition to protect as confidential the rates and term of the contract be and is hereby denied.

3. Cincinnati Bell shall, within 20 days from the date of this Order, file for inclusion in the public record, edited copies of the contract which conform to the requirements of this Order.

Done at Frankfort, Kentucky, this 18th day of October, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director